IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 18TH JUNE 2007 / 28TH JYAISHTA 1929

Bail Appl..No. 3797 of 2007()

CRIME NO.72/2000 OF CHELAKKARA POLICE STATION.

PETITIONER/ACCUSED

VIJAYAN, AGED 35 YEARS,
S/O.VELAYUDHAN, KALPADA HOUSE,
KURUMALA P.O., CHELAKKARA,
THRISSUR DISTRICT.

BY ADV. SRI.PEEYUS A.KOTTAM

RESPONDENTS: COMPLAINANT & STATE

STATE OF KERALA, REP. BY SUB INSPECTOR
OF POLICE, CHELAKKARA POLICE STATION,
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P. SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 18/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A.NO. 3797 OF 2007

Dated this the 18th day of June, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations, inter alia, under Secs.354 and 506(1) of the IPC. All offences are bailable, it is submitted. The petitioner had appeared before the learned Magistrate; but he could not continue to appear as he had to leave for his place of employment abroad. Now a warrant of arrest is pending against the petitioner. The case has been transferred to the list of Long Pending Cases as L.P.R.No.22/03. The petitioner apprehends arrest at any movement in execution of the coercive process issued by the court.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His absence was on account of reasons beyond his control. In these circumstances, directions under Sec.438 of the Cr.P.C. may be issued in favour

of the petitioner to save him from the undeserved trauma of arrest and detention in custody.

3. This application is opposed by the learned Public Prosecutor. He submits that there are no grounds justifying the invocation of the discretion under Sec.438 of the Cr.P.C. I am satisfied that this is a fit case where the petitioner must resort to the ordinary and normal procedure of appearing before the learned Magistrate having jurisdiction. He must then apply for regular bail. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

4. In the result, this application is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and

expeditiously – on the date of surrender itself, unless compelling and exceptional reasons are there.

Sd/-
(R. BASANT, JUDGE)

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P.S. to Judge